

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

LAWRENCE M. MARTIN,) CASE NO.: C06-1092-RSL
Petitioner,)
v.) ORDER TRANSFERRING § 2254
PETITION
JEFF UTTECHT,)
Respondent.)

The Court, having reviewed petitioner's petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254, respondent's answer to the petition, petitioner's traverse, the Report and Recommendation of the Honorable Mary Alice Theiler, United States Magistrate Judge, any objections thereto, and the balance of the record, does hereby find and ORDER:

- (1) The Court adopts the Report and Recommendation;

(2) This case is TRANSFERRED to the Ninth Circuit Court of Appeals, in the interests of justice, pursuant to 28 U.S.C. § 1631 and Circuit Rule 22-3(a). Petitioner is advised that this transfer does not of itself constitute compliance with § 2244(b)(3) and Circuit Rule 22-3. He must still file a motion for leave to proceed in the Ninth Circuit and make the showing required by § 2244(b)(2); and

01 (3) The Clerk is directed to close this case and transfer all original documents to the
02 Ninth Circuit Court of Appeals. The Clerk is further directed to send a copy of
03 this Order to petitioner, to counsel for respondent, and to Judge Theiler.

04 DATED this 3rd day of January, 2007.

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07 Robert S. Lasnik
08 United States District Judge